

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FITZROY ZIGGY WALKER,

§

Plaintiff,

§

v.

Civil Action No. **3:21-CV-758-L**

**U.S. BANK and FRIENDLY
CHEVROLET,**

§

Defendants.

§

ORDER

On November 1, 2021, the United States Magistrate Judge entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 14), recommending that the court grant the Motions to Dismiss (Docs. 8, 9) filed by Defendants and, pursuant to Federal Rule of Civil Procedure 12(b)(6), dismiss with prejudice all claims asserted by Plaintiff against Defendants (except for his defamation claim against U.S. Bank) for alleged violations of the Truth in Lending Act, the Federal Debt Collection Practices Act, and the Gramm-Leach-Bliley Act. The magistrate judge construed U.S. Bank’s motion as not seeking dismissal of Plaintiff’s defamation claim.

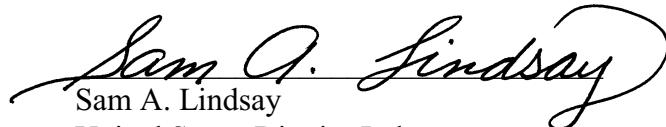
On November 15, 2021, U.S. Bank filed objections to the Report, contending that Plaintiff’s allegations regarding his reputation being damaged are not made solely in connection with his defamation claim, but also his claim for alleged violations of the Federal Debt Collection Practices. In addition, U.S. Bank clarifies that its motion requested dismissal of the entire suit and all claims by Plaintiff, which would encompass any purported defamation claim by him.

The court agrees that U.S. Bank sought dismissal of all claims against it; however, there is no mention in its Motion to Dismiss regarding Plaintiff's defamation claim. Any contentions U.S. Bank has regarding this claim are best left for resolution at another time. The court, therefore, **overrules** U.S. Bank's objection.

Having reviewed the motions, pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, and having conducted a de novo review of that portion of the Report to which objection was made, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants** Defendants' Motion to Dismiss (Docs. 8, 9) and **dismisses with prejudice**, pursuant to Federal Rule of Civil Procedure 12(b)(6), all claims by Plaintiffs in this action against Defendants, *except for his defamation claim against U.S. Bank*. If U.S. Bank would like to file a second motion to dismiss that addresses Plaintiff's common law defamation claim, it must do so by **December 15, 2021**.

Further, although the court would normally allow a plaintiff to amend his or her pleadings before dismissing them with prejudice, Plaintiff here did not respond to either motion to dismiss. In addition, he did not assert any objections to the Report and recommended disposition of his claims. The court, therefore, determines that he has pleaded his "best case" such that allowing him to amend his pleadings would only unnecessarily delay the resolution of this litigation. Accordingly, Plaintiff will not be allowed to amend his pleadings as to the dismissed claims.

It is so ordered this 30th day of November, 2021.



Sam A. Lindsay
United States District Judge